



The APPRAISER

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Opinion of Value

By Donald Jordan

Board Chairman

Based on the reports submitted to document work experience and the many questions that are asked of the Board, there continues to be a great deal of confusion among supervising appraisers about the right way to acknowledge a trainee's assistance. Also, trainees are not sure what they must do to insure work experience credit toward licensing when they are not signatory to a report.

These questions and concerns seem to fall into two categories:

- (1) Compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), and
- (2) Work experience documentation for the purpose of licensing or upgrading.

The USPAP covers the issue of assistance in several areas. Standard Rule 2-3 requires the appraiser to include a signed certification that states in part: "*No one provided significant real property appraisal assistance to the person signing this certification.*" If there are exceptions, it continues, the name of each individual providing significant real property appraisal assistance must be stated. The comment on this Rule says that the assistant(s) must be named in the certification.

Advisory Opinion (AO) 5 offers additional guidance. It states that "*if the principal appraiser signs the certification alone the contribution of the assistant must be acknowledged.*" It goes on to say that the specific task done by the assistant should be stated clearly as a portion of the scope of work disclosure required in SR 2-2(a)(b)(c)(vii).

Many appraisers use FNMA form 1004B, which covers this issue in the appraiser certification statement 9. The certification begins by saying that the appraiser personally prepared all conclusions and opinions set forth in the appraisal report. It continues with a statement that if the appraiser relied on significant professional assistance, the appraiser has named the individual and disclosed in the reconciliation section of the report the specific task performed by the assistant.

Compliance with these requirements can be accomplished in two or

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Board Putting New Rules Into Effect

The Arkansas Appraiser Licensing and Certification Board is putting rules into effect to carry out a 2001 law that creates a new licensing category for appraisers who do not work on federally related transactions.

Act 1256 of 2001 requires those in the new classification, State Registered Appraiser, to be registered with the Board by December 31. Executive Director Jim Martin said this forced the Board into the tightest schedule to put the regulations into effect that the Arkansas Procedure Act allows.

Written comments from the public were accepted on the proposed rules through Sept. 28 and the Board held a public hearing Oct. 2. Before they can go into effect, Board-approved rules must be reviewed by the Legislative Council and its Committee on Administrative Rules and Regulations.

A State Registered Appraiser is restricted by law to doing appraisals on property in which no federal agency is involved, and the reports submitted to clients must state that the information is not to be used in federally related transactions. However, the appraiser's work is subject to the competency provisions of the Uniform Standards of Professional Appraisal Practice (USPAP).

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"The Appraiser" is seeking timely articles or comments on practical appraisal subjects of interest to both residential and nonresidential appraisers from appraisers, lending institutions, and other mortgage lenders. The articles or letters should be sent to the Board's office at the above address.

Entered as second class matter:
United States Postal Service
Little Rock, Arkansas 72201

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three relatively easy steps.

First, if you have a trainee or associate, list his or her name in your certification statement. If you are using the standard 1004B, amend it so that it contain the assistant's name.

Second, list the specific task. If you are using form 1004B, be sure to include the name of the individual in the certification and then spell out in the reconciliation section or scope of work disclosure what specific task the individual performed, i.e., defining the problem, preliminary analysis, data collection, inspection of the subject property, highest and best use analysis, land value estimate, application of the three approaches to value, final value conclusion, and report preparation. When using the 1004B, you will need to change the reference to the reconciliation section in the certification if you place this information elsewhere in the report.

Third, if you have a trainee or an associate who provides significant professional assistance, be sure you are specific when stating the task he or she did. Supervising appraisers are encouraged to write clear and informative statements setting forth the specific task performed by the assistant. You should avoid comments such as "*professional assistance may have been provided by*" or "*John Doe assisted in the following areas.*" (See AO5) Statements should provide meaningful information to the report user so that they understand the elements of the appraisal on which the appraiser received assistance.

Attention to these three steps will help greatly in bringing appraisal reports being seen into compliance with USPAP.

A word of caution to supervising appraisers: the Board is considering whether to award work experience credit based on the amount of time an assistant actually puts into an appraisal process rather than the flat 8 hours for a single-family residential appraisal given now. There is a growing concern among Board members that supervisors are not supervising and trainees are not being trained.

The rules are similar for documenting experience hours on an appraisal log for the purpose of qualifying for a particular license. When an applicant submits an appraisal log with an application, the Board staff selects an appraisal report for review during the personal interview. The Board also has the prerogative of requesting the file for any work experience claimed. If the applicant has not cosigned the appraisal and if the person who signed the report has not included comments as required by USPAP, the reviewers of the application and work experience must operate under the assumption the applicant did not perform as reported and credit cannot be allowed.

Consequently, licensed and certified appraisers who are in the business of using assistants certainly should take note and endeavor to comply with the binding rules related to naming appraisal assistants in the certification and appropriately reporting their involvement within the body of the appraisal report. To do otherwise is a violation of USPAP binding requirements and will be considered as such by the Board.

FYI

There is growing concern among the Board members who participate in the interview process about the many appraisal reports submitted by licensing applicants containing work experience claims that are not signed by a supervising appraiser or the assistant.

Appraisers are encouraged to review their level of compliance with the record keeping provisions of USPAP. The Opinion of Value on Page 1 of this newsletter cites several applicable Standards and Advisory Opinions on this issue.

Work products that are not "true" and signed copies of those communicated to the client may not be considered to be a viable representation of an applicant's work experience.

Appraiser's Suspension Is Upheld

Pulaski County Circuit Court Judge Willard Proctor recently upheld the Arkansas Appraiser Licensing and Certification Board's license suspension and other disciplinary action against appraiser Charles S. Buckner of North Little Rock.

The suspension of Buckner's appraiser license is effective through Oct. 27 after which he will be on probation for nine months. While on probation, Buckner must submit monthly logs of his work to the Board. The Board also required Buckner to take a 15-hour course on the Uniform Standards of Professional Appraisal Practice (USPAP) and to pay a civil penalty of \$1,800.

After receiving a complaint from a mortgage company and determining from its own investigation that there appeared to be sufficient cause for action, the Board held a hearing in February at which it found Buckner had violated five USPAP rules or state laws when he signed a report in 1997 as a supervisory appraiser on a Cabot area house. No personal inspection of the property had been made as required, the Board found, and the report contained "*misleading and inaccurate information*."

The Board's action was stayed pending Buckner's appeal to Pulaski County Circuit Court. Judge Proctor heard the case May 25 and ruled June 6 that there was "*substantial evidence*" to back the Board's decision. He found also that the penalties were within the Board's legal authority and were not so harsh as to be "*arbitrary and capricious*." He ordered Buckner to pay an additional \$550 to the Board for preparation of the appeal record.

Buckner surrendered his license to the Board for the duration of the suspension.

Complaint Corner

The Board has received 15 complaints through August this year—slightly above the number for the same period in previous years.

Of these 15 complaints, 7 came from consumers, 3 from review appraisers, 3 from financial institutions, and 2 were initiated by the Board. Six of the 15 complaints have been dismissed because no probable cause could be found on which to base an expanded investigation or to process the complaint.

The greatest percentage of complaints comes from the public sector, but these are the ones that are most likely to be dismissed for lack of probable cause to proceed.

Four of the complaints have been recommended for consideration by a non-judicial hearing panel of the Board and five are still being investigated. Most of the complaints—13 of the 15—concern residential properties.

To date this year, no full Board hearing has been held on a complaint, but the agency has been busier than usual conducting six probable cause panel hearings and eight non-judicial hearings (informal conferences) in which two Board members participated.

The non-judicial hearings have exposed these significant problems with appraisal reports: (1) Inadequate neighborhood boundaries coupled with going outside the subject's

neighborhood for sales; (2) Evidence of sloppy work with failure by the appraiser to proof his/her work product and using too much boiler-plate and computer cloning; (3) Failure to revise the report signing date when corrections or revisions are made to the original; (4) Unsupported residential site values containing inconsistent cost approaches and adjustments; (5) Little attention paid to restrictions on State Licensed or Certified Residential appraisers who do not have the competency or authority to appraise nonresidential properties or transactions exceeding \$250,000 in value; (6) Consistent failure to address adequately the subject's sales history, any listing, or to analyze a previous sale; and (7) Unsubstantiated adjustments in the sales comparison approach.

Because of infractions found, three non-judicial hearings were held that produced consent agreements requiring remedial education and a probation period with monitoring of work products.

Processing complaints continues to consume the most time of Board members and staff. Eight of the complaints could have been avoided if the appraisers had given a little more attention to proofing their work products and to the manner in which they communicated with their clients or public consumers.

Approved Education Providers / Offerings

Baker's Professional Real Estate College - Contact Billie Joe Baker (318) 222-7459, Shreveport, La.

Kelton Schools - Contact Ron Kelton (870) 932-7202.

Lifetime Learning - Contact Dennis McIlroy 1-800-383-3365, Springfield, Mo., for future class schedule.

McKissock Data Systems - Call 1-800-328-2008.

National Association of Independent Fee Appraisers - Call 1-800-335-1751 for more information.

RCI Career Enhancements - Contact David Reinold (501) 968-7752.

The Columbia Institute - Call 1-800-460-3147, George Harrison. Classes to be held in Fayetteville: "Rethinking the Income Approach, #116," June 11, 8 hours CE; "Principles of Appraisal Review, #108," June 12, 8 hrs. CE.

The Lincoln Graduate Center - Call 1-800-531-5333 for more information.

University Seminars, Inc. (ASU Division) (ASU Division) - Contact Don Featherston, 1-800-315-8777. "Appraising Single-Family Residence," Oct. 26-27, 15 hrs. QE/CE; "Communicating Residential Appraisal with URAR," Nov. 9-10 15 hrs. QE/CE "Marshall and Swift Residential," Nov. 16-17, 15 hrs. QE/CE.

USPAP Instruction To Be Standardized

The Appraiser Qualifications Board (AQB) of The Appraisal Foundation has decided that instruction in the Uniform Standards of Professional Appraisal Practice (USPAP) must be standardized, effective Jan. 1, 2003.

To achieve standardization, the AQB has changed its rules so that the 15-hour USPAP course for qualifying education to become a licensed or certified appraiser must be the National USPAP course. In addition, the AQB amended its continuing education criteria to require a seven-hour National USPAP Update every two years.

The AQB, which has the responsibility of establishing the minimum education, experience and examination requirements for appraisers, is discussing several other issues with an eye to revising the Real Property Appraiser Qualification Criteria next fall with implementation by the states by Jan. 1, 2006.

The issues being discussed are:

- Should a college degree become an education requirement?
- Should state licensure and certification exams be more comprehensive and challenging?
- Should examinations be required on continuing education courses?
- Should continuing education requirements include mandatory courses, in addition to USPAP, on a periodic basis?
- Should examinations be segmented, e.g., USPAP, income analysis, etc.?

Discussion and exposure drafts of these and other issues may be found on the Foundation's Website at:

www.appraisalfoundation.org/aqb.htm

Status Report

As of September 19, 2001, the Board's records showed these totals for appraisers:

State Certified General	365
State Certified Residential	307
State Licensed	107

(Includes Temporary and Non-Resident Appraisers)

NEXT EXAM October 6, 2002

Potential applicants should contact the Board's staff for current information on the application process, exam schedules, fees, and other licensing matters by calling (501) 296-1843, or visit the Board's website at www.state.ar.us/alcb/ or write the Appraiser Licensing and Certification Board at 2725 Cantrell Road, Suite 202, Little Rock, AR 72202.

USPAP Sessions Set

To remain current, USPAP instructors and regulators will need to participate in one of the three remaining update sessions that have been scheduled by the Appraisal Standards Board.

The sessions will be:

Saturday, December 8 in New Orleans. Registration deadline is November 24.

Saturday, January 5, 2002, in Washington, D.C. Registration deadline is December 21.

Saturday, January 26, 2002, in San Francisco. Registration deadline is January 12, 2002.

The sessions, which cost \$175 a person, will provide an overview of changes in the 2002 USPAP Edition; common misunderstandings of USPAP,

NEW

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Highlights of the regulations include:

- A \$50 fee to register for a license that expires annually Dec. 31 and a \$50 renewal fee. No license may be placed on inactive or retired status.
- Applicant must submit a statement of work experience and scope of appraisal practice to the Board and present a signed affidavit that he/she has read and understands USPAP. A State Registered Appraiser must complete a 15-hour USPAP course with exam before first annual renewal. In subsequent years, he/she must have completed 14 hours a year of Board-approved continuing education to renew registration.
- A State Registered Appraiser may apply at any time to upgrade to State Licensed, Certified Residential or Certified General status, but must meet at least the minimum qualifications for the classification desired.
- Non-residents planning to do appraisals that are not federally related in Arkansas must apply to the Board for registration before starting the assignment. Their applications must include a notarized Consent For Service of Legal Process Affidavit.

such as Scope of Work and Departure; how the USPAP changes are incorporated into the National USPAP Course; and open forum for questions and answers.

To register:

Go to www.appraisalfoundation.org and click on the What's New button; register online; select one of the locations; go to the bottom of the invitation and click Yes; complete the registration information. Visa and Mastercard accepted.

ASB Questions and Answers

(Editor's Note: The Appraisal Standards Board (ASB) does not establish new standards or interpret existing ones. It issues Q&A to inform appraisers, regulators, and users of appraisal services of ASB responses to questions raised; to illustrate the applicability of USPAP in specific situations; and to offer advice from the ASB to help resolve appraisal issues and problems. The ASB Q&A do not constitute a legal opinion.)

Q: The Record Keeping section of the ETHICS RULE states in part that The workfile must include... true copies of any written reports... Does a true copy have to include a signature on the certification?

A: Yes. A true copy is a replica of the report sent to the client. Any signatures on the original report also must exist on the copy for the workfile.

Q: What is the difference between a client and an intended user?

A: The term "Client" is defined in the DEFINITIONS part of USPAP as "the party or parties who engage an appraiser (by employment or contract) in a specific assignment." The term "intended user" is defined as "the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment."

Eventual receipt of a copy of an appraisal, appraisal review, or appraisal con-

sulting report does not make the recipient an intended user. To be an intended user, the recipient must have been identified as such by the appraiser.

Q: Is it a violation of USPAP to use a recent sale of the subject property as a comparable in the sales comparison approach to value?

A: No. Standards Rule 1-4 says: "In developing a real property appraisal, an appraiser must collect, verify, and analyze all information applicable to the appraisal problem, given the scope of work identified in accordance with Standards Rule 1-2(f).

(a) When a sales comparison approach is applicable, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion."

Additionally, Standards Rule 1-5 states: "In developing a real property appraisal, an appraiser must... (b) analyze any prior sales of the property that occurred within the following minimum time periods: one year for one-to-four-family residential properties; and three years for all other property types; and..."

Therefore, not only could the subject property potentially be used as a comparable sale, an analysis of the previous sale must be made in accordance with Standards Rule 1-5. However, appraisers must be aware of any supplemental standards that require minimum numbers of comparable sales to be reported in addition to the sale of the subject property.

Q: I am working on an assignment with another appraiser. When finished, we both will sign the report and the certification. Does this mean we must create two workfiles so that we can both comply with the record keeping rules?

A: No. The Record Keeping section of the ETHICS RULE requires that a workfile be prepared for each assignment. One workfile is sufficient.

The Record Keeping section also requires that "An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile."

Therefore, arrangements should be made for one appraiser to retain the file with access provided to the other appraiser.

Q: A client has asked me to perform a review appraisal on a restricted use appraisal report. May I do this and comply with USPAP?

A: Yes. However, in order to comply with USPAP, the review appraiser must have access to the original appraiser's workfile. The extremely brief reporting nature of many restricted use appraisal reports makes reviewing these reports feasible only if the workfile also is available. The 2001 USPAP states at SR 2-2 (c) (ix): "...The review of a Restricted Use Appraisal Report in compliance with STANDARD 3 is not possible without the reviewer having benefit of information retained in the workfile." Therefore, the appraiser doing the review must gain access to the workfile in order to accept the assignment.

Q: I've been asked by a bank to provide a replacement cost estimate for an improved property to assist it in establishing an appropriate fire insurance level for its loan. This assignment does not involve appraising the property, so I don't consider it to be an appraisal assignment. Is it a consulting assignment under USPAP?

A: No. The assignment you describe does not constitute an appraisal because it does not involve an opinion of value. It also is not an appraisal consulting assignment because USPAP requires that an appraisal be a component of the analysis leading to the assignment results. As such, this type of assignment has no specific name and no specific performance standards apply to it.

Review Appraisers Take Note

In recent years, Board members have noticed an increase in complaints being filed by review appraisers or by lenders using reviews as a basis of a complaint.

The Board appreciates those review appraisers who will "step forward" and raise questions about another's work products and does not want to do anything that would interfere with this self-policing aspect of the profession.

From processing these documents, however, the Board observes that the reviews themselves contain too many misleading statements and factual errors. A major concern to the Board is that the reviewer has made an "opinion of value" statement either supporting or citing a different value from the appraisal

report without the benefit of a supporting Standard 1 development.

Appraisers are encouraged to proof their reviews thoroughly before filing them with the Board or with any client who ultimately may forward them to the Board to support a complaint.

The Board applauds and welcomes the ongoing effort by practicing appraisers to police their profession by bringing the Board's attention to any flawed appraisal reports. The Board is committed to addressing each and every referral and pledges to seek expeditious remediation of any problems found.

Appraisers who have questions about filing a complaint with the Board should contact its staff at (501) 296-1843

2002 USPAP

The 2002 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) goes into effect Jan. 1, 2002.

The Appraisal Standards Board of the Appraisal Foundation has adopted only minor changes to the 2002 edition aside from those that were implemented on July 1.

The final revisions primarily concern the definition of supplemental standards; the confidentiality and the record keeping sections of the Ethics Rule; the retirement of Statements 5 and 8; and revisions to the SR 6 on mass appraisal.

Arkansas licensees will be provided a copy of the 2002 edition after it is received in the Board's office. A continuing education update course on USPAP might not be a bad idea for Arkansas appraisers, according to Executive Director Jim Martin.

Additional copies of the 2002 USPAP, when available, may be ordered from the Appraisal Foundation at (202) 624-3044 or at its Web site:

www.appraisalfoundation.org

Privacy Rules Are Changed In USPAP

The Appraisal Standards Board (ASB) has made changes to the Uniform Standards of Professional Appraisal Practice (USPAP) effective last July to comply with new federal privacy requirements.

The Confidentiality section of the USPAP Ethics Rule was edited to say that, "*an appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*" In addition, text was added that says disclosure of confidential information is permissible to professional peer review committees, "*except when such disclosure to a committee would violate applicable law or regulation.*"

A notice about the adoption of federal privacy regulations also was added to this section.

The definition of "Confidential Information" in USPAP was changed to read:

Confidential Information: information that is either:

- identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or
- classified as confidential or private by applicable law or regulation.

A notice about the adoption of federal privacy regulations also was added to this definition.

The Federal Trade Commission (FTC) promulgated final privacy regulations effective last July 1 to carry out the Gramm-Leach-Bliley Act on notice requirements for disclosure of nonpublic personal information about individuals or third parties.

The regulations identify appraising real property as activities related to banking and therefore are covered by the law, though the rules are expected to affect only residential property.

The ASB has advised appraisers that familiarizing themselves with the FTC regulations is crucial because it is not likely the appraisal industry will be provided with more specific regulations or interpretations for implementing the law's requirements in the context of appraisal practice.

ARKANSAS



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